



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

October 24, 2007

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Umatilla County Plan Amendment
DLCD File Number 003-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: November 7, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
J.R. Cook, Umatilla County

<paa> ya

FORM **2**

DLCD

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Umatilla County**

Local file number: **#T-07-031, #P-093, #Z-288**

Date of Adoption: **10/17/2007**

Date Mailed: **10/17/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **7/6/2007**

- | | |
|---|--|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Change approximately 7 acres zoned Rural Tourist Commercial to Light Industrial. The applicant is also proposing an exception to Goal 14 to allow urban scale development on the subject property.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Commercial** to: **Industrial**

Zone Map Changed from: **RTC (Rural Tourist Commercial)** to: **LI (Light Industrial)**

Location: **Southeast of I-84/Col. Jordan Rd. Interchange Area** Acres Involved: **-7**

Specify Density: Previous: **1 acre** New: **1 acre**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD # 003-07 (16228)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Hermiston, ODOT, DEQ, OWRD, Umatilla County

Local Contact: **J.R. Cook**

Phone: (541) 278-6251 Extension: 0

Address: 216 S.E. 4th Street

Fax Number: 541-278-5480

City: Pendleton

Zip: 97801-

E-mail Address: jrcook@co.umatilla.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

RECEIVED

OCT 09 2007

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

UMATILLA COUNTY
RECORDS

STATE OF OREGON

In the Matter of Amending)
Comprehensive Plan and) ORDINANCE NO. 2007-10
to include Goal 14 Exception)
and Comprehensive Plan Map for)
Industrial Use for George H.)
Barton)

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County and also has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS an application was received from George H. Barton requesting Umatilla County to allow the re-zoning of 6.4 acres of rural property to allow for industrial use on property owned by George H. Barton, which would require an exception to Goal 14;

WHEREAS the Umatilla County Planning Commission held its final public hearing on September 27, 2007 to review the application and the proposed amendment to the plan and recommended that the Board of Commissioners adopt the amendments;

WHEREAS the Board of Commissioners held a public hearing on October 9, 2007, to consider the proposed amendments, and voted to approve the application.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendment to the Umatilla County Comprehensive Plan:

I. *To be amended under the section entitled Westland Interchange (Area #9) Commercial Justification on Page XVIII-409 (8th sentence):*

The southwest and southeast quadrants contain 11 acres and 13.6 acres respectively.

II. *To be amended under the section entitled Industrial Lands Exceptions Analysis, Westland (Area #3) on Page XVIII-458:*

These are the findings of fact and reasons to support exceptions to Statewide Planning Goals 14 (Urbanization) and 11 (Public Facilities and Services) for approximately 448

acres of light industrial land that is located in the vicinity of Westland Road, east of the intersection of Interstates 82 and 84 in Umatilla County. (In addition, all further references to 441 acres in this section as adopted by Ordinance No. 2005-08 are amended to 448 acres.)

As noted, two relatively small portions of the Westland Road light industrial area are not physically developed with urban-scale industrial uses. These include an approximately 38-acre area located south of I-84 (Tax Lots 4N28-31-400 and -500) and an approximately 58-acre area located north of the Lamb Weston property (Tax Lots 4N28-19A-500, -502, -503, -504, -1703 and 4N28-19D-800).

III. *To be added under the section entitled Industrial Lands Exceptions Analysis, Westland (Area #3) on Page XVIII-458, as amended by Ordinance No. 2005-08):*

There is further justification for the exception for part of the property located near the southwest intersection of Interstate 84 and Westland Road, approximately 6.4 acres, part of Tax Lot 4N28-31-400, which is more particularly described as the East 333 feet of the West 1,020 feet of the North Half of the Northwest Quarter of Section 31, Township 4 North, Range 28, East of Willamette Meridian, Umatilla County, Oregon, lying South of US Highway I-84.

The proposed development of this property is for heavy truck sales and service. This proposed development cannot be reasonably accommodated in an urban area or an existing rural community. First, locating the heavy truck sales use along I-84 is appropriate because this is where such trucks operate. Second, this type of operation is more appropriately suited in the proposed location where there are very few neighbors, rather than in a more dense urban area where heavy trucks would create incompatible impacts. Finally, no existing rural communities are available to site the use. This use is locationally dependent.

The ESEE consequences resulting from the proposed truck sales and service facility "are not significantly more adverse" than would result from the facility being placed in another undeveloped rural area that would also require an exception. The subject property is surrounded by existing non-resource zoning and development and is adjacent to a major interstate freeway interchange. The interchange is the first interchange exit east of the junction of I-84 and I-82, which makes the area ideally suited for commercial uses like what is being proposed. The property has already been

determined to be irrevocably committed to commercial uses, and the impacts of urban development on the subject property will not be significantly more adverse at this site than on other undeveloped rural lands. In fact, the ESEE consequences of siting the proposed facility on other rural lands that are not adjacent to I-84 and are not the subject of an existing committed exception would be significantly more adverse than on the subject property. Also, the amount of land proposed to be subject to this amendment is the minimum amount necessary. The site is not limited by soil, air, water or energy capacity nor will the proposed use adversely affect air, water, energy and land resources of the surrounding area. The property is currently zoned for commercial uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning.

The proposed truck sales and service facility will be compatible with adjacent uses, or will be rendered compatible through measures designed to reduce any adverse impacts. Surrounding uses are either similar or not subject to impact by any external impacts created by the proposed use.

IV. The map, Developed & Committed Commercial & Industrial Lands, Page XVIII-454A, is amended as set out in Exhibit 1, attached to this ordinance and incorporated by this reference.

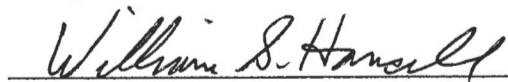
V. The plan designation of the approximate 6.4 acres of Tax Lot 4N28-31-400 is changed from Commercial to Industrial, and all maps in the Comprehensive Plan are changed to reflect this amendment.

FURTHER, the Board of Commissioners of Umatilla County ordains that the zoning map designation of the approximate 6.4 acres of Tax Lot 4N28-31-400 is changed from Rural Tourist Commercial to Light Industrial.

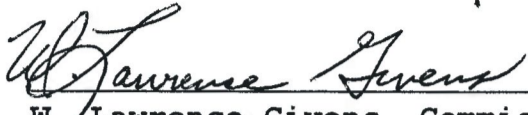
DATED this 9th day of October, 2007.

UMATILLA COUNTY BOARD OF COMMISSIONERS


Dennis D. Doherty, Chair


William S. Hansell, Commissioner





W. Lawrence Givens, Commissioner



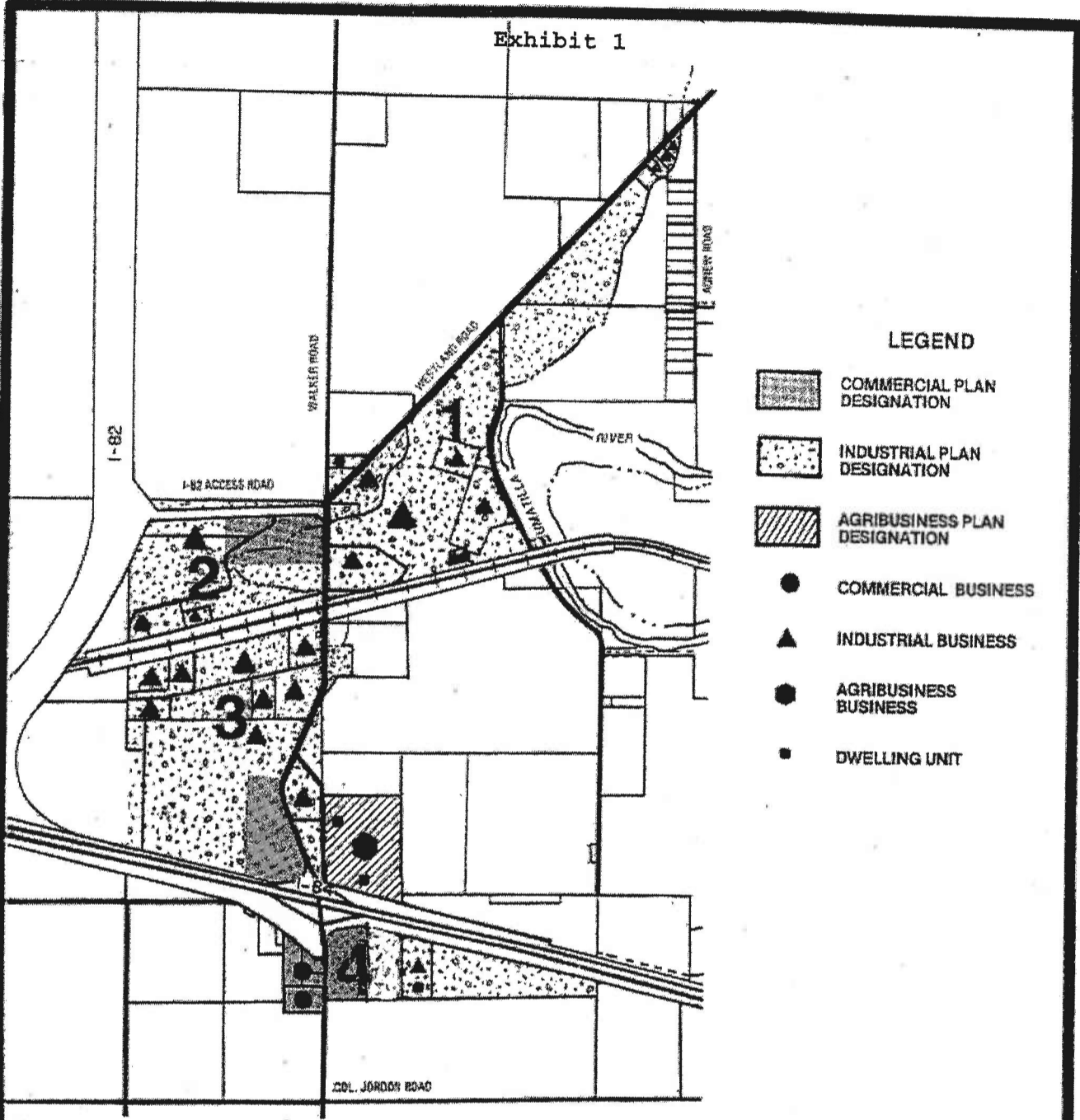
ATTEST:
OFFICE OF COUNTY RECORDS










Records Officer



Exhibit 1



LEGEND

-  COMMERCIAL PLAN DESIGNATION
-  INDUSTRIAL PLAN DESIGNATION
-  AGRIBUSINESS PLAN DESIGNATION
-  COMMERCIAL BUSINESS
-  INDUSTRIAL BUSINESS
-  AGRIBUSINESS BUSINESS
-  DWELLING UNIT



WESTLAND INTERCHANGE & WESTLAND INDUSTRIAL AREA

OCTOBER 2007

DEVELOPED & COMMITTED COMMERCIAL & INDUSTRIAL LANDS



**UMATILLA COUNTY, BOARD OF COUNTY COMMISSIONERS
FINAL FINDINGS AND CONCLUSIONS
BARTON COMPREHENSIVE PLAN MAP AMENDMENT (File #P-093),
COMPREHENSIVE PLAN TEXT AMENDMENT (File #T-07-031),
EXCEPTION TO STATEWIDE PLANNING GOAL 14, and
ZONING MAP AMENDMENT (File #Z-288) for property located on
ASSESSOR'S MAP 4N 28 31, TAX LOT 400**

SUMMARY OF FACTS

Applicant: George Barton

Owner: George Barton

Requests:

1. To change the Comprehensive Plan designation from Commercial to Industrial (Plan Map Amendment #P-093)
2. To change the Zoning Classification from Rural Tourist Commercial (RTC) to Light Industrial (LI), having a one-acre minimum lot size (Zoning Map Amendment #Z-288)
3. To change the Umatilla County Comprehensive Plan text to add a new industrial area description to the Industrial Lands section (Plan Text Amendment T-07-031)
4. An exception to Statewide Planning Goal 14 (Urbanization).

Location: The subject property is approximately 6.4 acres of 116.61 acre parcel and is located southeast of the intersection of I-84 and Col. Jordan Road.

Tax Maps: Map #4N 28 31, Tax Lot #400

Size: +/- 6.4 acres

Zoning: Rural Tourist Commercial

INTRODUCTION

A. Description of Proposed Development:

George Barton (the "Applicant") makes this request to change the Umatilla County Comprehensive Plan (the "Plan") map and zoning map designations on approximately 6.4 acres of property located generally southeast of the intersection of Col. Jordan Road and I-84 from Commercial/Rural Tourist Commercial to Industrial/Light Industrial. The property that is the subject of this application is identified on the attached Exhibit 1. The property has been owned by George Barton since approximately 1964, and the total contiguous ownership is about 125 acres.

The purpose of the application is to change the map designations on the site in order to allow the sale of the property to a heavy truck sales and service company that will serve the surrounding agricultural and distribution centers including the Wal-Mart distribution center. The company will employ between 14 and 16 people.

B. Site Description:

The site is located on the east side of Tax Lot 400 adjacent to Tax Lot 500 which is also zoned LI. Tax Lot 500 is owned by Richard Barton and is occupied by Barton Industries. The applicant understands that a land division will be necessary to create a lawful unit of land prior to any sale of the property.

The site is located at the southeast intersection of Col. Jordan Road and I-84, and is outside of an urban growth boundary. The uses to the west include a truck stop and agricultural uses. Tax Lots 100, 200, 300 and 1600 immediately to the southwest of the intersection are zoned Rural Tourist Commercial ("RTC"). Tax Lot 400, the subject of this application, is zoned RTC. An application is pending before the County for a portion of this property to be developed as a truck stop. Tax Lot 500 to the east of Tax Lot 400 is zoned Light Industrial ("LI") and is owned by the Barton family. The tax lot to the south is zoned EFU. The properties to the northwest of the intersection of Col. Jordan Road and I-84 are zoned RTC and LI. The property to the northeast of the intersection is zoned AB and is occupied by Northwest Livestock.

C. Summary of Application:

This application consists of the following requests:

- (1) A plan map amendment to the Plan from "Commercial" to "Industrial" on a portion of Tax Lot 400.
- (2) A zoning map amendment from "RTC" to "LI" to implement the requested Plan map designation.
- (3) An exception to Statewide Planning Goal ("Goal") 14, "Urbanization." To the extent an exception to Goal 3 is required, which should not be the case based on a prior committed exception on the property, that exception is addressed through the application of the Goal 14 exception criteria.

APPLICATION FOR EXCEPTION TO STATEWIDE PLANNING GOAL 14 ON PART OF TAX LOT 400:

A. Introduction:

The proposed exception to Goal 14 is requested in order to allow the proposed "urban" development of the property, which would not otherwise be permitted outside of an urban growth boundary ("UGB"). The site is already subject to a committed exception for commercial uses, hence the RTC zoning. A copy of the county's prior committed exception for the subject property is attached as Exhibit 2.

Because the county has already approved an "irrevocably committed" exception to Goal 3 for the subject property, which exception has been acknowledged by LCDC, there is no need for the county to separately adopt another exception to Goal 3 in order to approve this application. Unlike a "reasons" exception, which is an exception based on reasons why a specific use should be allowed, the basis of a committed exception is a conclusion that the property has been irrevocably committed to non-resource use due to its location with regard to other developed property in the vicinity. In other words, a committed exception is location-specific, whereas a reasons exception is use-specific. Once a determination has been made that a particular property is irrevocably committed to non-resource use due to development on adjacent and nearby parcels, there is no reason under the goals or their implementing rules to require another exception for the same property.

Additionally the OAR Chapter 660 Division 4 rules do not apply because a Goal 14 exception is required under the applicable provisions of OAR Chapter 660, Division 14. As addressed in more detail in Section II.B below, the Goal 14 exception criteria apply to the exclusion of the resource goal exception criteria of Division 4.

B. Exception Criteria:

The proposed map amendments to allow development of a heavy truck sales and service facility require the county to adopt a "reasons" exception to Goal 14. The requirements for "reasons" exceptions to the statewide planning goals are set out in ORS 197.732(1)(c), in Goal 2 Part II (Exceptions), and in administrative rules (OAR chapter 660, Division 4 and Division 14) adopted by LCDC to implement the statutory and Goal 2 exception process.

Under ORS 197.732(1)(c) and Goal 2 Part II, a local government may adopt a "reasons" exception to one of the goals if the following standards are met:

- (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
- (2) Areas which do not require a new exception cannot reasonably accommodate the use;
- (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

To allow urban uses on rural land, an exception to Goal 14 is also required. An exception to Goal 14 is required because the proposed use is "urban" in scale and intensity, and

Goal 14 prohibits urban uses outside of urban growth boundaries or unincorporated communities. In *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001), LUBA explained how LCDC's administrative rules for exceptions apply to proposed urban uses and public facilities on rural lands.¹ In that decision, LUBA stated, in relevant part:

"OAR 660-004-0020(2) implements Goal 2, Part II(c) and ORS 197.732(1)(c), and elaborates on the four ultimate criteria for adopting a reasons exception. OAR 660-004-0022 prescribes "[t]he types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands," for purposes of Goal 2, Part II(c)(A) and OAR 660-004-0020(2)(a). OAR 660-004-0022(1) provides three criteria for determining whether reasons justify uses not allowed on resource lands. These three criteria apply where adopting a reasons exception for all uses, except for those that are specifically provided for in subsequent sections of OAR 660-004-0022 or in OAR chapter 660, division 14. In turn, sections (2) through (10) of OAR 660-004-0022 set forth specific criteria for particular types of uses or particular types of protected resources. For present purposes, the relevant section is OAR 660-004-0022(2), which provides criteria for adopting a reasons exception to allow rural residential development. Also relevant in the present case, indeed of critical importance, is OAR 660-014-0040, which provides criteria for adopting a reasons exception to Goal 14.

"Under this framework, determining which criteria apply requires that the local government identify the character of the use for which a reasons exception is proposed. If the proposed exception involves circumstances or uses not governed by OAR 660-004-0022(2) through (10) or OAR chapter 660, division 14, then OAR 660-004-0022(1)(a)-(c) provide the applicable criteria for determining whether reasons justify the proposed exception. If, on the other hand, the proposed exception is intended to allow urban development, then OAR 660-004-0022(1) directs the county to OAR 660-014-0040. * * *

* * * * *

"Assuming that the proposed use is for urban residential development, the county must satisfy OAR 660-004-0020(2)(a) by addressing the requirements of OAR 660-014-0040. We have some doubt that the proposed development can satisfy those requirements, particularly the requirement that 'urban population and urban levels of facilities and services are necessary to support an economic activity which is dependent upon an adjacent or nearby natural resource.' OAR 660-014-0040(2). Nonetheless, any judgment on that point is premature, because the county has not addressed OAR 660-014-0040. Assuming, for the sake of discussion, that the proposed development complies

¹ *DLCD v. Umatilla County* involved a comprehensive plan amendment to allow residential development on agricultural land next to a golf course.

with OAR 660-014-0040, there would then be no need to address the requirements of either OAR 660-004-0022(1) or (2) with respect to either Goal 3 or Goal 11. That is because reasons that justify a Goal 14 exception under OAR 660-014-0040 also must be sufficient to justify exceptions to Goals 3, 4 and 11, if exceptions to those goals are required. In this context, no additional reasons for purposes of OAR 660-004-0020(2)(a) are necessary to establish exceptions to Goals 3, 4 and 11 once the local government demonstrates reasons to justify new urban development under OAR 660-014-0040." *DLCD v. Umatilla County*, 39 Or LUBA at 719-724 (footnotes omitted; emphasis added).

The above-quoted language from *DLCD v. Umatilla County* demonstrates that a Goal 14 exception that, like the present application request, allows the placement of urban uses and facilities on rural land under OAR 660-014-0040 is also inherently adequate to meet the requirements of the "standard" Goal 3 and Goal 4 exceptions criteria of OAR 660-004-0020(2)(a) and 0022. Therefore, the present application narrative will focus on the specific Goal 14 exception criteria set forth in OAR 660-014-0040, which provides as follows:

"(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

"(3) To approve an exception under section (2) of this rule, a county must also show:

"(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

"(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

"(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

"(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

"(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

"(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

"(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

"(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

With the background provided by LUBA's explanation of the criteria applicable to "reasons" exceptions, the remainder of this section will focus on the above-quoted Goal 14 exceptions criteria.

C. Goal 14 Exception Criteria, OAR 660-014-0040:

OAR 660-014-0040(2) provides that one means by which a county can justify a Goal 14 exception is to provide reasons that justify why the policies in Goals 3, 4, 11 and 14 should not apply, including (but not limited to) findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource. However, the rule expressly does not make this the only basis on which the county can justify a Goal 14 exception. The proposed truck sales and service facility is not a use that is dependent upon an adjacent or nearby natural resource.

Reasons supporting the development of the proposed truck sales and service facility are summarized in this section. Urban levels of facilities and services are required for the facility, which will stimulate economic development in Umatilla County consistent with Goal 9. The primary clients of the truck sales and service facility include businesses located within major population centers in Oregon, Washington and Idaho. The policy embodied in Goal 14 is the restriction of urban uses to urban growth boundaries. In this case, the subject property is already committed to non-resource and non-rural uses, and an exception to the Goal 14 policy is justified because a determination has already been made that the property is not appropriate for anything besides urban uses. The proposed heavy truck sales and service use is dependent upon a location that is in close proximity to Interstate 84, because it will provide necessary services to other businesses along Interstate 84.

"(3) To approve an exception under section (2) of this rule, a county must also show:

"(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

Response: The proposed development cannot be reasonably accommodated in an urban area or an existing rural community. First, locating the heavy truck sales use along I-84 is appropriate because this is where such trucks operate. Second, this type of operation is more appropriately suited in the proposed location where there are very few neighbors, rather than in a more dense urban area where heavy trucks would create incompatible impacts. Finally, no existing rural communities are available to site the use. This use is locationally dependent, so the County finds that this criterion is satisfied.

"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

"(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

"(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Response: The analysis required by this section of the rule requires a determination that the ESEE consequences resulting from the proposed truck sales and service facility "are not significantly more adverse" than would result from the facility being placed in another undeveloped rural area that would also require an exception. This rule does not create a particularly high standard. This section is satisfied because the subject property is surrounded by existing non-resource zoning and development and is adjacent to a major interstate freeway interchange. The interchange is the first interchange exit east of the junction of I-84 and I-82, which makes the area ideally suited for commercial uses like what is being proposed. The property has already been determined to be irrevocably committed to commercial uses, and the impacts of urban development on the subject property will not be significantly more adverse at this site than on other undeveloped rural lands. In fact, the ESEE consequences of siting the proposed facility on other rural lands that are not adjacent to I-84 and are not the subject of an existing committed exception would be significantly more adverse than on the subject property. Also, the amount of land proposed to be subject to this amendment is the minimum amount

necessary. The property is currently zoned for commercial uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning.

"(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

"(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

"(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

Response: The proposed truck sales and service facility will be compatible with adjacent uses, or will be rendered compatible through measures designed to reduce any adverse impacts. Surrounding uses are either similar or not subject to impact by any external impacts created by the proposed use.

"(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner.

Response: This section does not apply because no public facilities or services are proposed.

"(e) That incorporation of a new city or establishment of new urban development of undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for incorporation."

Response: The application does not propose incorporation of a new city. As described in Section III.B below, the county can conclude that the proposed use is consistent with applicable comprehensive plan policies.

APPLICATION FOR PLAN MAP AMENDMENT FROM "COMMERCIAL" TO "INDUSTRIAL"

A. Introduction.

Umatilla County Development Code ("UCDC") Chapter 152.750 et seq., contains the approval criteria for an amendment to the Plan. UCDC Section 152.751 is entitled "Compliance With Comprehensive Plan." This section requires that an amendment to the zoning map must comply with the Plan and a deviation from this section shall be preceded by an amendment to the Plan. UCDC Section 152.750 authorizes an

amendment by a property owner. This application is accompanied by a Umatilla County application form with the signature of the property owner.

B. Applicable Comprehensive Plan Policies.

Umatilla County Development Code ("UCDC") Section 152.751 requires that map amendments must demonstrate compliance with the Plan. This part of the application demonstrates compliance with the acknowledged Umatilla County Comprehensive Plan.

Comprehensive Plan Chapter XII is entitled "Economy of the County." Several of the policies support this application. Plan Policy 5 states:

"In close proximity to cities, yet outside of urbanizable areas, limit commercial development to those areas that meet the requirements of Goal 2 and ORS 197.732 for an exception in resource areas. Commercial developments shall also be limited to land demanding many activities that require two public services."

This policy is satisfied because this site, which is in close proximity to the City of Hermiston yet outside of its urban area, satisfies Goal 2 because the county has already determined that the area is "ideally suited for commercial uses," and approved an exception for the subject property. Also, this site is uniquely qualified in that it does not require public services and will encourage economic development along I-84 without impacting the capacity of that highway or the Westland Road Interchange.

Plan Policy 9 provides:

"Recognize the need for flexibility in planning and periodically review/update economic policies and projects."

This policy is satisfied because the application is a response to an identified opportunity to generate jobs and economic growth in this portion of the County. The County finds that the applicable policies of its comprehensive plan are satisfied.

C. Applicable UCDC Approval Criteria.

1. UCDC Section 152.752.

Response: This criterion requires compliance with the acknowledged Umatilla County Transportation System Plan (the "TSP"). Section 152.752(A)-(B) implements the Transportation Planning Rule, OAR 660-012-0060(1)-(2). As demonstrated elsewhere in this application, this Plan map amendment complies with Statewide Planning Goal 12 and the TPR, thus demonstrating compliance with this section.

2. UCDC Section 152.754.

Response: This section provide that the Planning Commission may impose conditions on amendment to the comprehensive plan. The Planning Commission may impose reasonable criteria.

D. Applicable Statewide Planning Goals.

1. Goal 2, "Land Use Planning."

Response: The application satisfies the requirements of Goal 2 in two respects. First, the County will coordinate with affected governmental entities including but not limited to the Oregon Department of Transportation ("ODOT"). Second, this application contains an adequate factual base demonstrating compliance with the applicable criteria.

2. Goal 3, "Agriculture."

Response: For the reasons described above, the county has already determined that the subject property is irrevocably committed to non-farm uses, and therefore Goal 3 is not applicable.

3. Goal 9, "Economy."

Response: This application furthers the County's implementation of Goal 9 by allowing a new business to be located in the area where its location makes a great deal of sense. The committed exception for the area adopted as part of the County Comprehensive Plan (Exhibit 2 page 409) recognizes that the Westland Interchange Area (Area #9) should be designated and used for commercial purposes. The County has already taken an exception to Goal 3 to allow the area to be designated RTC instead of EFU. The County has expressly recognized the economic importance of this site and the fact that it is "ideally suited for commercial use." (Exhibit 2, page 416).

The Goal 3 exception adopted as part of the County's Plan further states:

"The southeast and southeast quadrants contain 11 acres and 20 acres, respectively. The southwest quadrant has never been developed, but the County believes an exception pursuant to ORS 197.732(c) is justifiable and will discuss this area in detail. The 20 acres in the southeast quadrant meets the requirements for an irrevocable commitment as outlined in ORS 197.732(b) in the estimation of the County." (Emphasis added.) (Exhibit 2, page 409).

The County's exception analysis attached as Exhibit 1 demonstrates that this area is irrevocably committed to commercial use. Pages 410-412 demonstrate why this site is appropriate for economic development.

The County finds that the application is consistent with Goal 9.

4. Goal 12, "Transportation."

Response: This application requests a Plan map and zoning map amendment to designate the site Industrial where already designated Commercial. As described in the Group MacKenzie traffic impact analysis ("TIA") attached as Exhibit 3 traffic generated from an industrial use would be less than that generated from a commercial use. Accordingly, the County finds that Goal 12 is satisfied because the proposed map amendments will continue to provide for a safe and efficient transportation system in this area.

5. Goal 14, "Urbanization."

Response: For the reasons described in Section II.C above, the county may conclude that an exception to Goal 14 is appropriate under the circumstances of this application. For the reasons contained in this application, the Applicant respectfully requests that the Planning Commission and Board of County Commissioners approve this application.

COMPLIANCE WITH TRANSPORTATION PLANNING RULE, OAR 660-012-0060(1)-(2)

A. OAR 660-012-0060(1)-(2).

"(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

Response: As discussed below, the proposed plan amendments will not significantly affect a transportation facility within the meaning of the TPR.

"(2) A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) change standards implementing a functional classification system; or
(c) as measured at the end of the planning period identified in the adopted transportation system plan:

(A) allow land uses or levels of development that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan, or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below

the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Response: As stated in the traffic impact analysis ("TIA") submitted with this application and attached as Exhibit 3 the proposed amendment complies with the above-quoted provisions of the TPR. The application requests a less traffic-intensive use than what is currently allowed under the existing RTC designation, and therefore there will be no significant effect on the surrounding transportation facility caused by this application. No change in the functional classification of any facility will result from this application. No change of any standard implementing a functional classification will result from this application. This application will not allow a type or level of land use inconsistent with the functional classification of the relevant transportation facilities. The proposed plan amendments will not result in the reduction of the performance of the relevant facilities below the minimum acceptable level identified in the TSP. Therefore the County finds that the application is consistent with the TPR.

VI. CONCLUSION

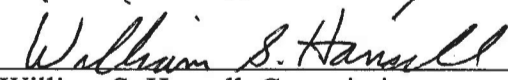
Based upon the above Findings of Fact and Conclusions, Umatilla County approves the foregoing requests of the Barton application.

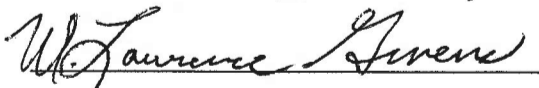
1. To change the Comprehensive Plan designation from Commercial to Industrial (Plan Map Amendment #P-093)
2. To change the Zoning Classification from Rural Tourist Commercial (RTC) to Light Industrial (LI), having a one-acre minimum lot size (Zoning Map Amendment #Z-288)
3. To change the Umatilla County Comprehensive Plan text to add a new industrial area description to the Industrial Lands section (Plan Text Amendment T-07-031)
4. An exception to Statewide Planning Goal 14 (Urbanization).

DATED this 17 day of October, 2007.

UMATILLA COUNTY BOARD OF COMMISSIONERS


Dennis D. Doherty, Chairman


William S. Hansell, Commissioner


W. Lawrence Givens, Commissioner

Umatilla County

Department of Resource Services and Development



Director
Tamra Mabbott

October 2, 2007

Planning &
Development
Division:

LAND USE
PLANNING
541-278-6252

CODE
ENFORCEMENT
541-278-6300

Emergency
Management
Division:

EMERGENCY
MANAGEMENT
541-966-3700

CHEMICAL
STOCKPILE
EMERGENCY
PREPAREDNESS
PROGRAM
(CSEPP)
541-567-2084
541-966-3700
1-877-367-2737

County/State
Agency Liaisons:

OSU EXTENSION
SERVICE
541-278-5403

WATERMASTER
541-278-5456

MEMO

TO: Umatilla County Board of Commissioners
Interested Persons

FROM: J.R. Cook, Asst. Planning Director – Water and Land Use

RE: Barton Plan Amendment Application

The final Hearing for the Barton Plan Amendment Application #P-093, Plan Text Amendment #T-07-031 and Zoning Map Amendment #Z-288 will be held on August 23, 2007. Perkins Coie, LLP represents the applicant and has drafted findings to address the specific criteria related to this request. The burden rests with the applicant to prove that they have addressed all applicable criteria in support of the proposed Plan Amendment.

Request

The applicant proposes to change the zoning on approximately 6.4 acres from Rural Tourist Commercial (RTC) to Light Industrial (LI). The applicant also proposes an exception to Statewide Planning Goal 14 (Urbanization).

Recommendation

The Umatilla County Planning Commission heard this application on Thursday, August 23, 2007 and recommended approval of the zone change request.

Criteria for Approval

Land Use Action /Findings Criteria

Exception to Goal 14

OAR 660-014-0040

Comprehensive Plan
Amendment

Light Industrial Plan
Map Section, General Review
Policies, Development
Strategies Policies, Other Use
Policies, Economic
Development, Public
Facilities and Services.

Compliance with Goals
Statewide Planning Goals

1-2, 5, 6, 9, 11-14.

Compliance with the
Umatilla County TSP

Westland/I-84 IAMP,
Goal 12 (TPR)

To assist in expediting the Board hearing process, staff suggests the Commission proceed with the hearing as follows:

1. Staff Report
2. Public Testimony (proponents/opponents)

3. Rebuttal by Applicant
4. Board to deliberate on the following issues:
 - A. Board interpretation and clarification of criteria of approval
 1. Comprehensive Plan
 2. Umatilla County Development Code
 3. Umatilla County Transportation System Plan (Westland/I-84 IAMP)
 4. ORS/OAR requirements
 - B. Oregon Administrative Rules 660-014-0040
 - C. Have applicable criteria been addressed adequately?
Do any applicable criteria warrant additional information?
If yes, identify.
 - i. Staff suggests OAR 660-023-0140 needs addressed with findings related to Goal 5
 - ii. Staff Suggests that findings related to Goal 6 be added to address nitrate contamination and the Lower Umatilla Basin Groundwater Management Area
 - iii. Staff Suggests that the applicant address Finding and Policy 8 of the Umatilla County Comprehensive Plan (p. XII-3) related to water availabilities for future economic growth
 - D. Close or Continue Hearing.
 1. Accept exhibits into the record of proceedings
 2. Final decision
 3. Provide direction to staff as to additional information and/or findings

EXHIBITS TO HEARING
BARTON PLAN AMENDMENT

- EXHIBIT #1: Staff Memo, dated August 16, 2007
- EXHIBIT #2: Vicinity Map
- EXHIBIT #3: 2005 Aerial Photo of Subject Parcel
- EXHIBIT #4: Soils Survey
- EXHIBIT #5: Letter and Narrative from Michael Robinson, Perkins Coie, dated June 15, 2007
- EXHIBIT #6: Minutes of August 23, 2007 Planning Commission meeting
- Exhibit #7: staff memo, dated 10-2-07*

Umatilla County

Department of Resource Services and Development



Director
Tamra Mabbott

August 16, 2007

Planning &
Development
Division:

LAND USE
PLANNING
541-278-6252

CODE
ENFORCEMENT
541-278-6300

Emergency
Management
Division:

EMERGENCY
MANAGEMENT
541-966-3700

CHEMICAL
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EMERGENCY
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541-567-2084
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1-877-367-2737

County/State
Agency Liaisons:

OSU EXTENSION
SERVICE
541-278-5403

WATERMASTER
541-278-5456

MEMO

TO: Planning Commission
Interested Persons
FROM: J.R. Cook, Asst. Planning Director – Water and Land Use
RE: Barton Plan Amendment Application

The initial Public Hearing for the Barton Plan Amendment Application #P-093, Plan Text Amendment #T-07-031 and Zoning Map Amendment #Z-288 will be held on August 23, 2007. Perkins Coie, LLP represents the applicant and has drafted findings to address the specific criteria related to this request. The burden rests with the applicant to prove that they have addressed all applicable criteria in support of the proposed Plan Amendment.

Request

The applicant proposes to change the zoning on approximately 6.4 acres from Rural Tourist Commercial (RTC) to Light Industrial (LI). The applicant also proposes an exception to Statewide Planning Goal 14 (Urbanization).

Criteria for Approval

Land Use Action /Findings Criteria

Exception to Goal 14	OAR 660-014-0040
Comprehensive Plan Amendment	Light Industrial Plan Map Section, General Review Policies, Development Strategies Policies, Other Use Policies, Economic Development, Public Facilities and Services.
Compliance with Goals Statewide Planning Goals	1-2, 5, 6, 9, 11-14.
Compliance with the Umatilla County TSP	Westland/I-84 IAMP, Goal 12 (TPR)

To assist in expediting the Planning Commission hearing process, staff suggests the Commission proceed with the hearing as follows:

1. Staff Report
2. Public Testimony (proponents/opponents)
3. Rebuttal by Applicant
4. Commission to deliberate on the following issues:

EXHIBIT 1

Page _____

- A. Commission interpretation and clarification of criteria of approval
 - 1. Comprehensive Plan
 - 2. Umatilla County Development Code
 - 3. Umatilla County Transportation System Plan (Westland/I-84 IAMP)
 - 4. ORS/OAR requirements
 - B. Oregon Administrative Rules 660-014-0040
 - C. Have applicable criteria been addressed adequately?
Do any applicable criteria warrant additional information?
If yes, identify.
 - i. Staff suggests OAR 660-023-0140 needs addressed with findings related to Goal 5
 - ii. Staff Suggests that findings related to Goal 6 be added to address nitrate contamination and the Lower Umatilla Basin Groundwater Management Area
 - iii. Staff Suggests that the applicant address Finding and Policy 8 of the Umatilla County Comprehensive Plan (p. XII-3) related to water availabilities for future economic growth
 - D. Close or Continue Hearing.
 - 1. Recommendation to the Umatilla County Board of Commissioners
 - 2. Provide direction to staff as to additional information and/or findings
-

PROPERTY OWNERS WITHIN
250' OF SUBJECT PARCEL

MAP 4N2831

- 400 BARTON, GEORGE H
- 500 BARTON, RICHARD R
- 600 WESTERN LAND AND CATTLE INC
- 700 WESTERN LAND AND CATTLE INC
- 800 WESTERN LAND AND CATTLE INC
- 1200 GELISSEN, PAUL C
- 1300 GELISSEN, PAUL C
- 1400 FREDERICKSON, ERICK D & TRESIA A
- 1500 GOFF, DONALD E & CYNTHIA
- 1600 NOBLE, HARRY E & HELEN M
- 2100 CURTIS, BERT W & MARY J

MAP 4N2736

- 100 WESTERN LAND & CATTLE INC
- 200 WESTERN LAND & CATTLE INC
- 1500 INGRAM, DENNIS R
- 1600 WESTERN INVESTMENTS INC
- 1700 PRIOR, CHESTER (TRUSTEE)

Area of proposed
action



Application # T-07-031, #P-073,

Applicant: George Barton #Z-288

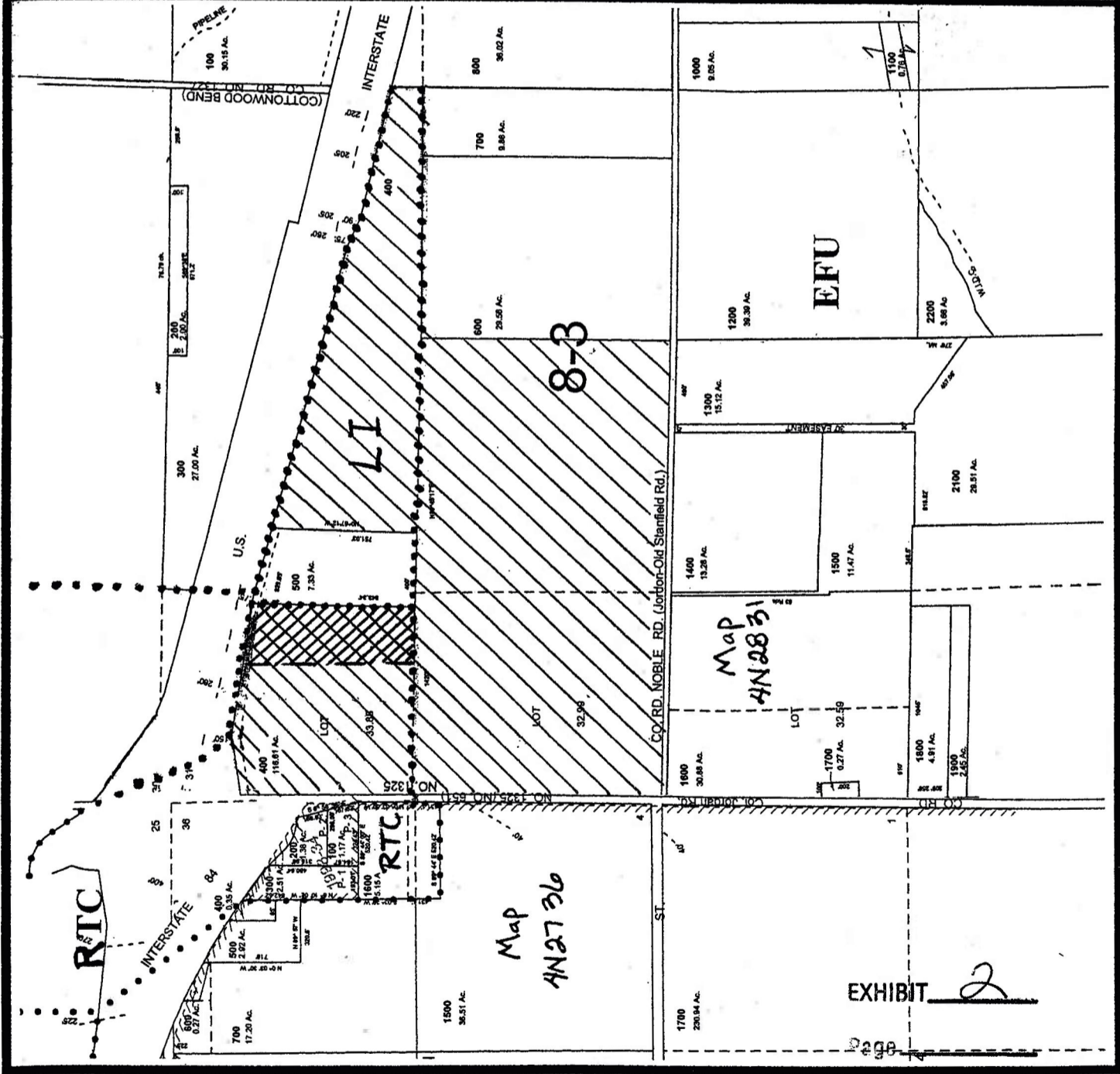
Owner: George Barton

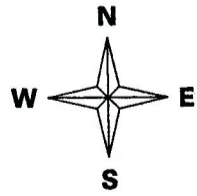
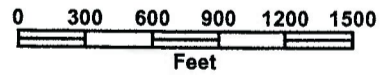
SUBJECT PARCEL/TRACT

DATE: 7/11/07 SCALE: 1" = 800'

MAP: 4N2831

PREPARED BY UMATILLA COUNTY PLANNING DEPARTMENT





2005 Aerial Photo
4N2831 Tax Lot 400
~~US Dept of Ag Soils Survey~~

EXHIBIT 3

Page _____



EXHIBIT 4

Page _____



1120 N.W. Couch Street, Tenth Floor
Portland, OR 97209-4128
PHONE: 503.727.2000
FAX: 503.727.2222
www.perkinscoie.com

Michael C. Robinson
PHONE: (503) 727-2264
FAX: (503) 346-2264
EMAIL: MRobinson@perkinscoie.com

June 15, 2007

VIA E-MAIL

Mr. J.R. Cook
Assistant Planning Director, Water and Land Use
Umatilla County
Resource Services and Development
216 SE 4th Street
Pendleton, OR 97801

**Re: Post-Acknowledgment Amendment to Umatilla County Comprehensive Plan
and Zoning Map and Exception to Statewide Planning Goal 14,
"Urbanization"**

Dear Mr. Cook:

This office represents George Barton. Please find attached an application requesting approval of an exception to Statewide Planning Goal 14 and an amendment to the Umatilla County Comprehensive Plan map and zoning map for approximately 7.0 acres southeast of the intersection of Colonel Jordan Road and Interstate 84.

I am the applicant's representative. Please provide me with copies of all notices of public hearings, staff reports and correspondence to the County and from the County concerning this application. Also, please provide me with a copy of the notice to the Department of Land Conservation and Development required to be mailed 45-days prior to the August 23, 2007 Umatilla County Planning Commission hearing.

58550-0001/LEGAL13318587.1

ANCHORAGE • BEIJING • BELLEVUE • BOISE • CHICAGO • DENVER • LOS ANGELES
MENLO PARK • OLYMPIA • PHOENIX • PORTLAND • SAN FRANCISCO • SEATTLE • WASHINGTON, D.C.

Perkins Coie LLP and Affiliates

EXHIBIT 5

Page _____

Mr. J.R. Cook
June 15, 2007
Page 2

Roger Alfred will be working with me on this application. Please feel free to call either Roger or me if you need additional information.

Very truly yours,



Michael C. Robinson

MCR/cfr

Enclosures

cc: Mr. Bob Barton (w/encl.) (via email)
Mr. Roger Alfred (w/encl.)
Mr. Chris Clemow (w/encl.) (via email)
Mr. Kevin Barney (w/encl.) (via email)
Ms. Lynn Paretchan (w/encl.)
Mr. Dave Newton (w/encl.) (via email)

**Before the Umatilla County Planning Commission
and Board of County Commissioners**

In the Matter of an Application by)	
George Barton for a Comprehensive Plan)	
Map Amendment from Commercial ("C"))	
to Industrial ("I"), a Zoning Map)	Narrative Addressing Applicable
Amendment from Rural Tourist)	Approval Criteria
Commercial ("RTC") to Light Industrial)	
("LI") and an Exception to Statewide)	
Planning Goal 14 on Property located)	
southeast of the Intersection of I-84 and)	
Col. Jordan Road on approximately)	
6.4 acres.)	

I. Introduction.

A. Description of Proposed Development.

George Barton (the "Applicant") makes this request to change the Umatilla County Comprehensive Plan (the "Plan") map and zoning map designations on approximately 6.4 acres of property located generally southeast of the intersection of Col. Jordan Road and I-84 from Commercial/Rural Tourist Commercial to Industrial/Light Industrial. The property that is the subject of this application is identified on the attached **Exhibit 1**. The property has been owned by George Barton since approximately 1964, and the total contiguous ownership is about 125 acres.

The purpose of the application is to change the map designations on the site in order to allow the sale of the property to a heavy truck sales and service company that will serve the surrounding agricultural and distribution centers including the Wal-Mart distribution center. The company will employ between 14 and 16 people.

B. Site Description.

The site is located on the east side of Tax Lot 400 adjacent to Tax Lot 500 which is also zoned LI. Tax Lot 500 is owned by Richard Barton and is occupied by Barton Industries. The applicant understands that a land division will be necessary to create a lawful unit of land prior to any sale of the property.

The site is located at the southeast intersection of Col. Jordan Road and I-84, and is outside of an urban growth boundary. The uses to the west include a truck stop and agricultural uses. Tax Lots 100, 200, 300 and 1600 immediately to the southwest of the intersection are zoned Rural Tourist Commercial ("RTC"). Tax Lot 400, the subject of this application, is zoned RTC. An application is pending before the County for a portion of this property to be developed as a truck stop. Tax Lot 500 to the east of Tax Lot 400 is zoned Light Industrial ("LI") and is owned by the Barton family. The tax lot to the south is zoned EFU. The properties to the northwest of the intersection of Col. Jordan Road and I-84 are zoned RTC and LI. The property to the northeast of the intersection is zoned AB and is occupied by Northwest Livestock.

C. Summary of Application.

This application consists of the following requests:

- A **plan map amendment** to the Plan from "Commercial" to "Industrial" on a portion of Tax Lot 400.
- A **zoning map amendment** from "RTC" to "LI" to implement the requested Plan map designation.
- An **exception** to Statewide Planning Goal ("Goal") 14, "Urbanization." To the extent an exception to Goal 3 is required, which should not be the case based on a prior committed exception on the property, that exception is addressed through the application of the Goal 14 exception criteria.

II. Application for Exception to Statewide Planning Goal 14 on Part of Tax Lot 400.

A. Introduction.

The proposed exception to Goal 14 is requested in order to allow the proposed "urban" development of the property, which would not otherwise be permitted outside of an urban growth boundary ("UGB"). The site is already subject to a committed exception for commercial uses, hence the RTC zoning. A copy of the county's prior committed exception for the subject property is attached as **Exhibit 2**.

Because the county has already approved an "irrevocably committed" exception to Goal 3 for the subject property, which exception has been acknowledged by LCDC, there is no need for the county to separately adopt another exception in order to approve this application. Unlike a "reasons" exception, which is an exception based on reasons why a specific use should be allowed, the basis of a committed

exception is a conclusion that the property has been irrevocably committed to non-resource use due to its location with regard to other developed property in the vicinity. In other words, a committed exception is location-specific, whereas a reasons exception is use-specific. Once a determination has been made that a particular property is irrevocably committed to non-resource use due to development on adjacent and nearby parcels, there is no reason under the goals or their implementing rules to require another exception for the same property.

However, to the extent the county or DLCD believes that another Goal 3 exception is required, the OAR Chapter 660 Division 4 rules do not apply because a Goal 14 exception is required under the applicable provisions of OAR Chapter 660, Division 14. As addressed in more detail in Section II.B below, the Goal 14 exception criteria apply to the exclusion of the resource goal exception criteria of Division 4.

B. Exception Criteria.

The proposed map amendments to allow development of a heavy truck sales and service facility require the county to adopt a "reasons" exception to Goal 14. The requirements for "reasons" exceptions to the statewide planning goals are set out in ORS 197.732(1)(c), in Goal 2 Part II (Exceptions), and in administrative rules (OAR chapter 660, Division 4 and Division 14) adopted by LCDC to implement the statutory and Goal 2 exception process.

Under ORS 197.732(1)(c) and Goal 2 Part II, a local government may adopt a "reasons" exception to one of the goals if the following standards are met:

- "(1) Reasons justify why the state policy embodied in the applicable goals should not apply;
- "(2) Areas which do not require a new exception cannot reasonably accommodate the use;
- "(3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- "(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts."

To allow urban uses on rural land, an exception to Goal 14 is also required. An exception to Goal 14 is required because the proposed use is "urban" in scale and intensity, and Goal 14 prohibits urban uses outside of urban growth boundaries or unincorporated communities. In *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001), LUBA explained how LCDC's administrative rules for exceptions apply to proposed urban uses and public facilities on rural lands.¹ In that decision, LUBA stated, in relevant part:

"OAR 660-004-0020(2) implements Goal 2, Part II(c) and ORS 197.732(1)(c), and elaborates on the four ultimate criteria for adopting a reasons exception. OAR 660-004-0022 prescribes "[t]he types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands," for purposes of Goal 2, Part II(c)(A) and OAR 660-004-0020(2)(a). OAR 660-004-0022(1) provides three criteria for determining whether reasons justify uses not allowed on resource lands. These three criteria apply where adopting a reasons exception for all uses, except for those that are specifically provided for in subsequent sections of OAR 660-004-0022 or in OAR chapter 660, division 14. In turn, sections (2) through (10) of OAR 660-004-0022 set forth specific criteria for particular types of uses or particular types of protected resources. For present purposes, the relevant section is OAR 660-004-0022(2), which provides criteria for adopting a reasons exception to allow rural residential development. Also relevant in the present case, indeed of critical importance, is OAR 660-014-0040, which provides criteria for adopting a reasons exception to Goal 14.

"Under this framework, determining which criteria apply requires that the local government identify the character of the use for which a reasons exception is proposed. If the proposed exception involves circumstances or uses not governed by OAR 660-004-0022(2) through (10) or OAR chapter 660, division 14, then OAR 660-004-0022(1)(a)-(c) provide the applicable criteria for determining whether reasons justify the proposed exception. *If, on the other hand, the proposed exception is intended to allow urban development, then OAR 660-004-0022(1) directs the county to OAR 660-014-0040. * * **

"* * * * *

¹ *DLCD v. Umatilla County* involved a comprehensive plan amendment to allow residential development on agricultural land next to a golf course.

"Assuming that the proposed use is for urban residential development, the county must satisfy OAR 660-004-0020(2)(a) by addressing the requirements of OAR 660-014-0040. We have some doubt that the proposed development can satisfy those requirements, particularly the requirement that 'urban population and urban levels of facilities and services are necessary to support an economic activity which is dependent upon an adjacent or nearby natural resource.' OAR 660-014-0040(2). Nonetheless, any judgment on that point is premature, because the county has not addressed OAR 660-014-0040. *Assuming, for the sake of discussion, that the proposed development complies with OAR 660-014-0040, there would then be no need to address the requirements of either OAR 660-004-0022(1) or (2) with respect to either Goal 3 or Goal 11. That is because reasons that justify a Goal 14 exception under OAR 660-014-0040 also must be sufficient to justify exceptions to Goals 3, 4 and 11, if exceptions to those goals are required. In this context, no additional reasons for purposes of OAR 660-004-0020(2)(a) are necessary to establish exceptions to Goals 3, 4 and 11 once the local government demonstrates reasons to justify new urban development under OAR 660-014-0040.*" *DLCD v. Umatilla County*, 39 Or LUBA at 719-724 (footnotes omitted; emphasis added).

The above-quoted language from *DLCD v. Umatilla County* demonstrates that a Goal 14 exception that, like the present application request, allows the placement of urban uses and facilities on rural land under OAR 660-014-0040 is also inherently adequate to meet the requirements of the "standard" Goal 3 and Goal 4 exceptions criteria of OAR 660-004-0020(2)(a) and 0022. Therefore, the present application narrative will focus on the specific Goal 14 exception criteria set forth in OAR 660-014-0040, which provides as follows:

"(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

"(3) To approve an exception under section (2) of this rule, a county must also show:

"(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably

accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

"(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

"(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

"(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

"(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

"(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

"(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

"(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

With the background provided by LUBA's explanation of the criteria applicable to "reasons" exceptions, the remainder of this section will focus on the above-quoted Goal 14 exceptions criteria.

C. Goal 14 Exception Criteria, OAR 660-014-0040.

OAR 660-014-0040(2) provides that one means by which a county can justify a Goal 14 exception is to provide reasons that justify why the policies in Goals 3, 4, 11 and 14 should not apply, including (but not limited to) findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource. However, the rule expressly does *not* make this the only basis on which the county can justify a Goal 14 exception. The proposed truck sales and service facility is not a use that is dependent upon an adjacent or nearby natural resource.

Reasons supporting the development of the proposed truck sales and service facility are summarized in this section. Urban levels of facilities and services are required for the facility, which will stimulate economic development in Umatilla County consistent with Goal 9. The primary clients of the truck sales and service facility include businesses located within major population centers in Oregon, Washington and Idaho. The policy embodied in Goal 14 is the restriction of urban uses to urban growth boundaries. In this case, the subject property is already committed to non-resource and non-rural uses, and an exception to the Goal 14 policy is justified because a determination has already been made that the property is not appropriate for anything besides urban uses. The proposed heavy truck sales and service use is dependent upon a location that is in close proximity to Interstate 84, because it will provide necessary services to other businesses along Interstate 84.

"(3) To approve an exception under section (2) of this rule, a county must also show:

"(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

Response: The proposed development cannot be reasonably accommodated in an urban area or an existing rural community. First, locating the heavy truck sales use along I-84 is appropriate because this is where such trucks operate. Second, this type of operation is more appropriately suited in the proposed location where there are very few neighbors, rather than in a more dense urban area where heavy trucks would create incompatible impacts. Finally, no existing rural communities are available to

site the use. This use is locationally dependent, so the County can find that this criterion is satisfied.

"(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

"(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

"(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

Response: The analysis required by this section of the rule requires a determination that the ESEE consequences resulting from the proposed truck sales and service facility "are not *significantly* more adverse" than would result from the facility being placed in another undeveloped rural area that would also require an exception. This rule does not create a particularly high standard. This section is satisfied because the subject property is surrounded by existing non-resource zoning and development and is adjacent to a major interstate freeway interchange. The interchange is the first interchange exit east of the junction of I-84 and I-82, which makes the area ideally suited for commercial uses like what is being proposed. The property has already been determined to be irrevocably committed to commercial uses, and the impacts of urban development on the subject property will not be significantly more adverse at this site than on other undeveloped rural lands. In fact, the ESEE consequences of siting the proposed facility on other rural lands that are not adjacent to I-84 and are not the subject of an existing committed exception would be significantly more adverse than on the subject property. Also, the amount of land proposed to be subject to this amendment is the minimum amount necessary. The site is not limited by soil, air, water or energy capacity nor will the proposed use adversely affect air, water, energy and land resources of the surrounding area. The property is currently zoned for commercial uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning.

"(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

"(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

"(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

Response: The proposed truck sales and service facility will be compatible with adjacent uses, or will be rendered compatible through measures designed to reduce any adverse impacts. Surrounding uses are either similar or not subject to impact by any external impacts created by the proposed use.

"(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner.

Response: This section does not apply because no public facilities or services are proposed.

"(e) That incorporation of a new city or establishment of new urban development of undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for incorporation."

Response: The application does not propose incorporation of a new city. As described in Section III.B below, the county can conclude that the proposed use is consistent with applicable comprehensive plan policies.

III. Application for Plan Map Amendment from "Commercial" to "Industrial."

A. Introduction.

Umatilla County Development Code ("UCDC") Chapter 152.750 *et seq.*, contains the approval criteria for an amendment to the Plan. UCDC Section 152.751 is entitled "Compliance With Comprehensive Plan." This section requires that an amendment to the zoning map must comply with the Plan and a deviation from this section shall be preceded by an amendment to the Plan. UCDC Section 152.750

authorizes an amendment by a property owner. This application is accompanied by a Umatilla County application form with the signature of the property owner.

B. Applicable Comprehensive Plan Policies.

Umatilla County Development Code ("UCDC") Section 152.751 requires that map amendments must demonstrate compliance with the Plan. This part of the application demonstrates compliance with the acknowledged Umatilla County Comprehensive Plan.

Comprehensive Plan Chapter XII is entitled "Economy of the County." Several of the policies support this application. Plan Policy 5 states:

"In close proximity to cities, yet outside of urbanizable areas, limit commercial development to those areas that meet the requirements of Goal 2 and ORS 197.732 for an exception in resource areas. Commercial developments shall also be limited to land demanding many activities that require two public services."

This policy is satisfied because this site, which is in close proximity to the City of Hermiston yet outside of its urban area, satisfies Goal 2 because the county has already determined that the area is "ideally suited for commercial uses," and approved an exception for the subject property. Also, this site is uniquely qualified in that it does not require public services and will encourage economic development along I-84 without impacting the capacity of that highway or the Westland Road Interchange.

Plan Policy 9 provides:

"Recognize the need for flexibility in planning and periodically review/update economic policies and projects."

This policy is satisfied because the application is a response to an identified opportunity to generate jobs and economic growth in this portion of the County.

The County can find that the applicable policies of its comprehensive plan are satisfied.

C. Applicable UCDC Approval Criteria.

1. UCDC Section 152.752.

Response: This criterion requires compliance with the acknowledged Umatilla County Transportation System Plan (the "TSP"). Section 152.752(A)-(B) implements

the Transportation Planning Rule, OAR 660-012-0060(1)-(2). As demonstrated elsewhere in this application, this Plan map amendment complies with Statewide Planning Goal 12 and the TPR, thus demonstrating compliance with this section.

2. UCDC Section 152.754.

Response: This section provide that the Planning Commission may impose conditions on amendment to the comprehensive plan. The Planning Commission may impose reasonable criteria.

D. Applicable Statewide Planning Goals.

1. Goal 2, "Land Use Planning."

Response: The application satisfies the requirements of Goal 2 in two respects. First, the County will coordinate with affected governmental entities including but not limited to the Oregon Department of Transportation ("ODOT"). Second, this application contains an adequate factual base demonstrating compliance with the applicable criteria.

2. Goal 3, "Agriculture."

Response: For the reasons described above, the county has already determined that the subject property is irrevocably committed to non-farm uses, and therefore Goal 3 is not applicable.

3. Goal 9, "Economy."

Response: This application furthers the County's implementation of Goal 9 by allowing a new business to be located in the area where its location makes a great deal of sense. The committed exception for the area adopted as part of the County Comprehensive Plan (Exhibit 2 page 409) recognizes that the Westland Interchange Area (Area #9) should be designated and used for commercial purposes. The County has already taken an exception to Goal 3 to allow the area to be designated RTC instead of EFU. The County has expressly recognized the economic importance of this site and the fact that it is "ideally suited for commercial use." (Exhibit 2, page 416).

The Goal 3 exception adopted as part of the County's Plan further states:

"The southeast and southeast quadrants contain 11 acres and 20 acres, respectively. The southwest quadrant has never been developed, but the County believes an exception pursuant to

ORS 197.732(c) is justifiable and will discuss this area in detail. *The 20 acres in the southeast quadrant meets the requirements for an irrevocable commitment as outlined in ORS 197.732(b) in the estimation of the County.* (Emphasis added.) (Exhibit 2, page 409).

The County's exception analysis attached as Exhibit 1 demonstrates that this area is irrevocably committed to commercial use. Pages 410-412 demonstrate why this site is appropriate for economic development.

The County can find that the application is consistent with Goal 9.

4. Goal 12, "Transportation."

Response: This application requests a Plan map and zoning map amendment to designate the site Industrial where already designated Commercial. As described in the Group MacKenzie traffic impact analysis ("TIA") attached as **Exhibit 3** traffic generated from an industrial use would be less than that generated from a commercial use. Accordingly, the County can find that Goal 12 is satisfied because the proposed map amendments will continue to provide for a safe and efficient transportation system in this area.

5. Goal 14, "Urbanization."

Response: For the reasons described in Section II.C above, the county may conclude that an exception to Goal 14 is appropriate under the circumstances of this application.

For the reasons contained in this application, the Applicant respectfully requests that the Planning Commission and Board of County Commissioners approve this application.

IV. Compliance With Transportation Planning Rule, OAR 660-012-0060(1)-(2).

A. OAR 660-012-0060(1)-(2).

"(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

Response: As discussed below, the proposed plan amendments will not significantly affect a transportation facility within the meaning of the TPR.

"(2) A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) change standards implementing a functional classification system;
or

(c) as measured at the end of the planning period identified in the adopted transportation system plan:

(A) allow land uses or levels of development that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

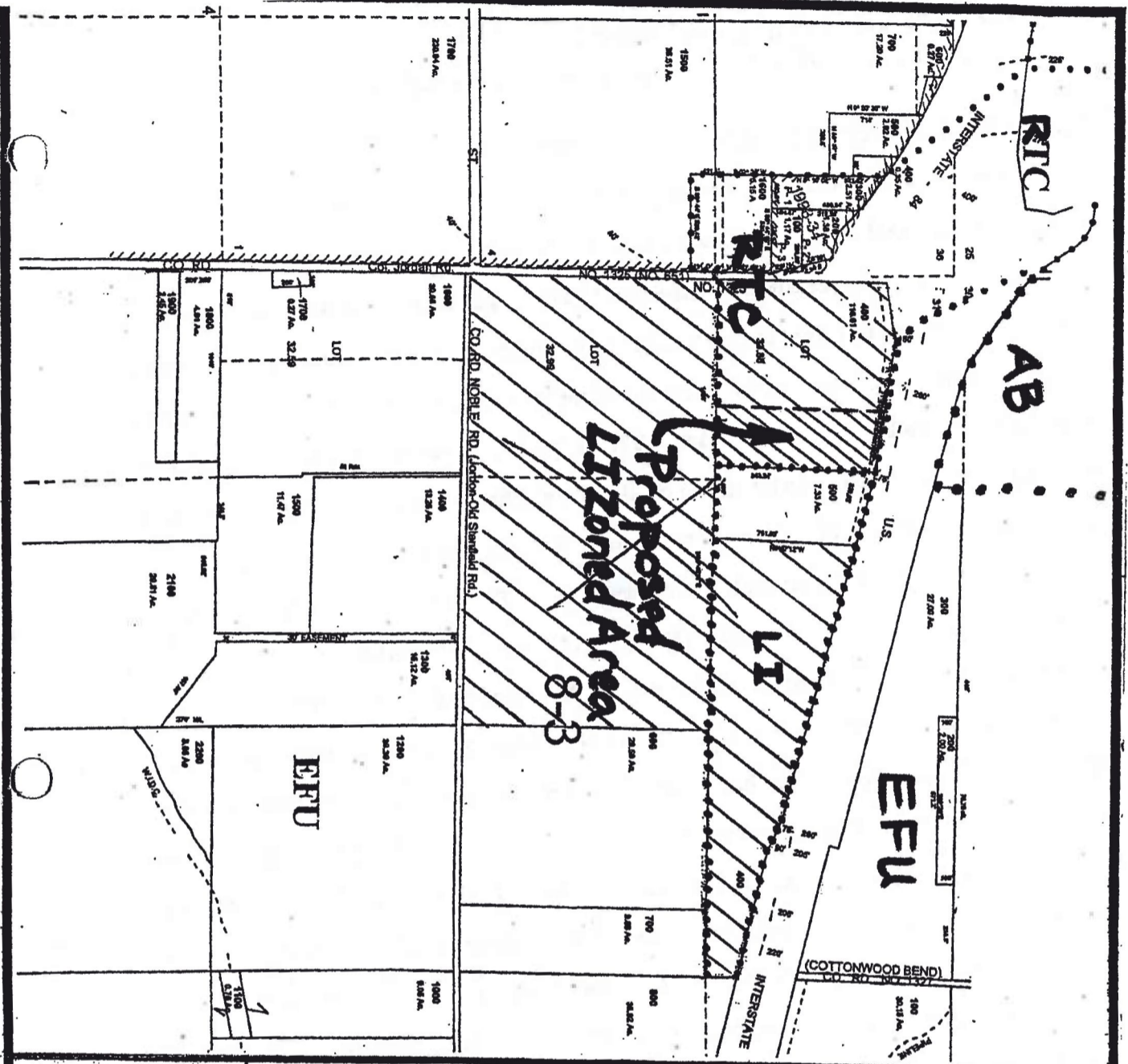
(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Response: As stated in the traffic impact analysis ("TIA") submitted with this application and attached as **Exhibit 3** the proposed amendment complies with the above-quoted provisions of the TPR. The application requests a less traffic-intensive use than what is currently allowed under the existing RTC designation, and therefore there will be no significant effect on the surrounding transportation facility caused by this application. No change in the functional classification of any facility will result from this application. No change of any standard implementing a functional classification will result from this application. This application will not allow a type or level of land use inconsistent with the functional classification of the relevant transportation facilities. The proposed plan amendments will not result in the reduction of the performance of the relevant facilities below the minimum acceptable level identified in the TSP. Therefore the County can find that the application is consistent with the TPR.

V. CONCLUSION

For the reasons contained in this application, the Applicant respectfully requests that the Planning Commission and Board of County Commissioners approve this application.



EXHIBIT

- Map 4N 28 31
- 400 George H. Barton
 - 500 Richard R. Barton
 - 600 Western Land & Cattle Inc.
 - 700 Western Land & Cattle Inc.
 - 800 Western Land & Cattle Inc.
 - 1200 Paul C. Gelissen
 - 1300 Paul C. Gelissen
 - 1400 Heather A. Turner
 - 1500 Donald & Cynthia Goff
 - 1600 Harry & Helen Noble
 - 2100 Bert & Mary J. Curtis

- Map 4N 27 36
- 100 Western Land & Cattle Inc.
 - 200 Western Land & Cattle Inc.
 - 1500 Dennis R. Ingram
 - 1600 Western Investments Inc.
 - 1700 Chester Prior

NORTH ↑

PREPARED BY UNAVATILLA COUNTY PLANNING DEPART

Umatilla County Comprehensive Plan
Westland Road Commercial exception

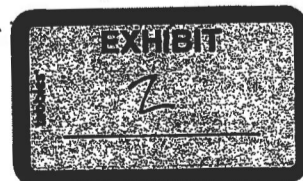
20 WESTLAND INTERCHANGE (Area #9) - Commercial Justification

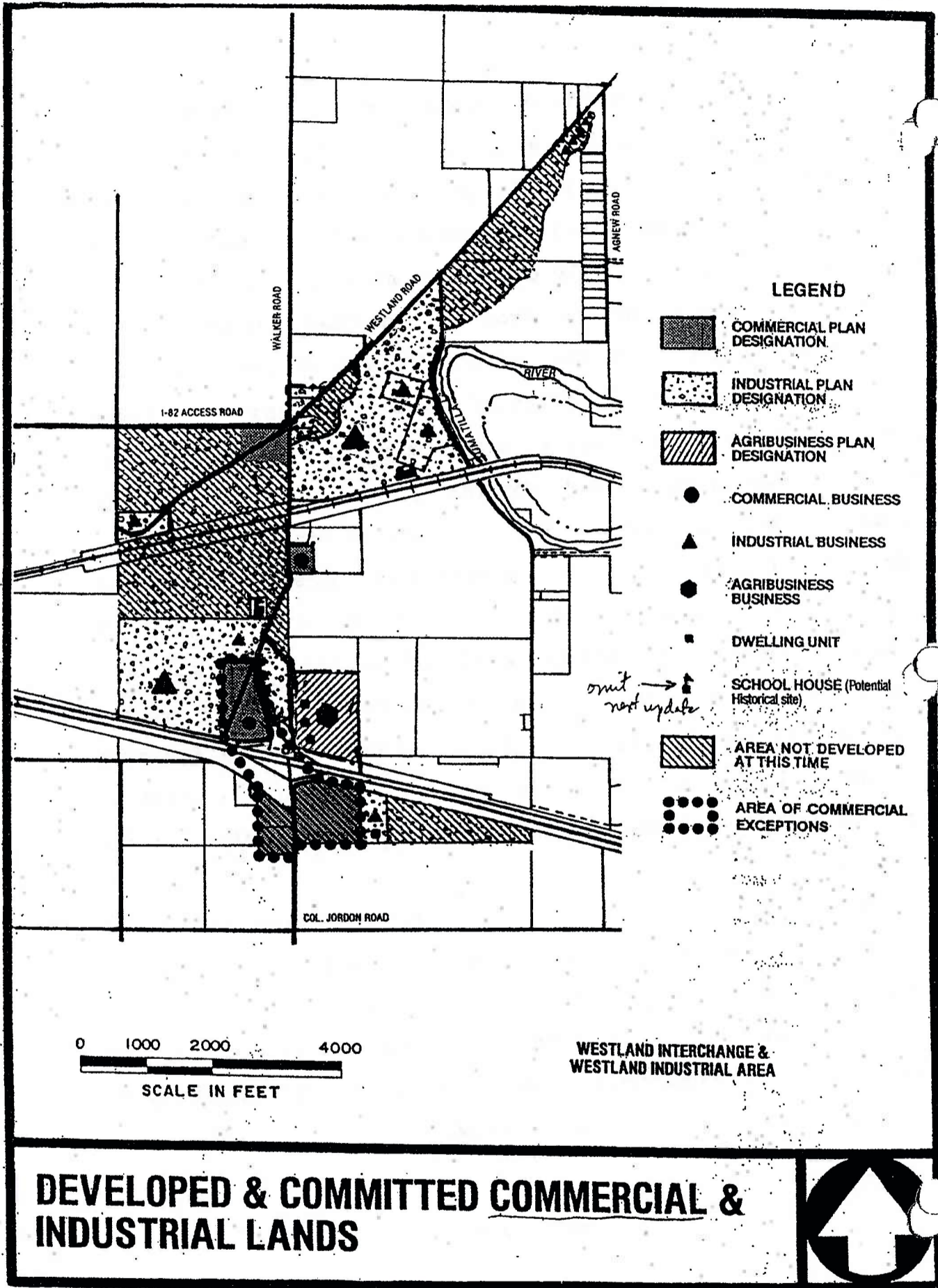
The Westland Interchange consists of 45 acres of commercial designated land in the northwest, southwest, and southeast quadrant of this I-84 interchange. The northwest quadrant contains 14 acres and is surrounded by industrial designated lands (see map on next page). Much of the land surrounding this land had been developed for industrial use. A railroad tie yard, where railroad ties are stored, sorted and sold is located on the site. To the west and north are several buildings that are associated with a horse racing track and an industrial warehouse. To the east is a major livestock sales yard and the south is Interstate I-84. The property is considered developed by the County. The southwest and southeast quadrants contain 11 acres and 20 acres respectively.

20 The southwest quadrant has never been developed, but the County believes an exception pursuant to ORS 197.732(c) is justifiable and will discuss this area in detail. The 20 acres in the southeast quadrant meets the requirements for irrevocable commitment as outlined in ORS 197.732(b) in the estimation of the County.

30 The southeast quadrant lies between the county road and an industrial building and use along the south side of the interstate. The site lacks irrigation water which results in the soils classification of the property being Class VII soils (see discussion of Westland Industrial area). The land is used at times for the storage of truck trailers and trucks. Recently a proposal was made by the landowner to construct a truck/car fueling and repair facility, cafe and motel on this site.

XVIII-409





Presently the site has an access road on two sides that provide access to the industrial use to the east. A domestic well is located on the industrial developed parcel that can serve this area. Electrical power lines are located along the north side of the property and would supply electrical needs in this area.

The site is well buffered from lands devoted to resource use. The freeway is located on the north and has a 300 foot right-of-way. The county road is located on the west and raises to cross over the freeway. This acts as a berm and protects the farmland to the west which is up wind from the proposed commercial area. Because the road is built-up, the right-of-way for the county road widens at the proposed commercial area which makes an even wider buffer between this area and the farmland to the west. To the east is developed industrial property which buffers the commercial area from farmland to the east. The land to the south is not farmed and does not have a water right. It is highly unlikely that the area will be used for agriculture because the area is in a critical groundwater area and new permits for agricultural irrigation are restricted.

The I-82 intersection with I-84 is approximately 2000 ft. to the west. That makes this intersection very desirable for tourist and highway travelers, especially the long haul truck drivers, since the freeway bypasses Hermiston. This intersection is the most logical for commercial development due to its proximity to this major intersection of two freeways.

The southwest quadrant of the Westland Interchange contains 11 acres of land designated for commercial use. This area is undeveloped and has been used marginally for pasture use. The County believes that an exceptions pursuant ORS 197.732(1)(c) is justified on these 11 acres. The criteria for an exception is as follows:

- (A) Reasons justifying why the state policy embodied in the applicable goals should not apply;
- (B) Areas which do not require a new exception cannot reasonably accommodate the use;
- (C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
- (D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts;

A. Reasons justify why the state policy embodied in the Applicable goals should not apply - The applicable goal involved with the exceptions is the Agricultural Lands Goal (Goal #3). The eleven acres involved contain Quincy Loamy Fine Sand Gravelly sub-stratum according to the SCS soil survey. With irrigation the site has an agricultural land capacity of Class IVe, but without water the capability drops to Class VIIe. No forest land exists near the

10 site so the only resource goal concerned is the Agricultural Lands Goal.

The County believes that additional lands for tourist commercial activities are necessary to serve the traveling public, especially along Interstate 84. According to State Highway Division figures compiled in 1982, the average daily traffic volume that approaches the Westland Interchange is 4650 vehicles per day. At the Westland Interchange an average of 1100 cars per day turn off, while 3550 proceed along the interstate. The 4650 vehicles per day equates to a little over three cars per minute on an average in a 24 hour period. Traffic is generally heavier during the daylight hours, so actual traffic counts in any one daylight time period would likely be even higher.

10 The Westland Interchange is the first major interchange in western Umatilla County and could appropriately be called the gateway to Umatilla County. It is approximately 20 miles from the town of Boardman where the next nearest services are to the west. With the completion of Interstate 82 to the west (which will only connect the two freeways and not have off-ramps), the Westland Interchange will be a prime location for tourist related facilities to locate. It should be mentioned that I-82 will not pass through Hermiston. The cities of Stanfield and Echo are about ten miles further east on Interstate 84, but both cities are located about one mile from the freeway.

The County has adopted policies within the plan which encourage tourist commercial development along the freeway. The amount of land designated for tourist commercial use is very limited, though. There are approximately 62 acres of developed and committed tourist commercial lands in the county along the entire length of the freeway, which runs for approximately 70 miles in Umatilla County. Only about 20 acres is entirely undeveloped and suitable for building. The remaining lands are developed or have development located on the property, which limits the potential for development. The eleven acres at Westland are vacant, flat and prime for development. The inclusion of this land is infinitesimal to the amount of agricultural lands in the county, and the land proposed to be removed is not even prime land. Research by the County regarding water rights shows that the land lacks any right to irrigation water. This results in a Class VIIe soils classification and limits the land for use as permanent pasture grass which dries up during the summer months. The eleven acres are in separate ownerships and are not contiguous to the other lands under the same ownership. Because of the small size and lack of water, it would be undesirable for a farm operator to absorb this land with this adjacent farmland. This set of circumstances has resulted in these two small, unmanageable parcels.

10 B. Areas which do not require a new exception cannot reasonably accommodate the use.

The areas available for tourist commercial use are limited by the very nature of the interstate freeway system. Interstate 84 is a limited access highway, and ingress and egress to the highway are limited to on and off ramps spaced every so often along the highway. Along approximately 18 miles of the freeway in western Umatilla County there are five of these interchanges. Of the five, one is the Urban Growth Boundary of two cities (see Area B on map, page XVIII-416A), two others have commercially developed or irrevocably committed lands that total 48 acres of land and two areas in agricultural production. A majority of the land identified for commercial is occupied by businesses. At the Westland Interchange Area B on map, page XVIII-416A in the northwest quadrant is a 14 acre parcel that is used in conjunction with a retail railroad tie sales yard (see discussion under committed and developed commercial lands in the northwest quadrant of Westland Interchange on page XVIII-409. In the southeast quadrant of the same interchange is a 20 acre parcel that is presently vacant. However, plans are being solidified to construct a major car/truck stop facility (fuel, repair, and restaurant). The other intersection with commercial land is 14 acres at Buttercreek Highway (State Highway 207) Interchange, which is approximately 2 1/2 miles east of Westland Interchange. See Area C on map, page XVIII-416A). This area has a travel trailer park, gas station-repair facility and restaurant. A large majority of

the property is developed or used as a drainfield for septic tank disposal. The other two interchanges, Ordinance and Echo road are generally used as farm parcels and have better agricultural soil. Only the Stanfield Interchange (ten miles east of Westland) has planned commercial usage. The north side of this interchange is within the Stanfield UGB, while the south side of it is within the Echo UGB.

Stanfield has 60 acres of land designated for commercial use on the north side of the Stanfield junction. None of the land is developed at this time, and the site is located one mile away from city services. Extension of services to this area is highly unlikely at this time and cost prohibitive for all but the most major types of development.

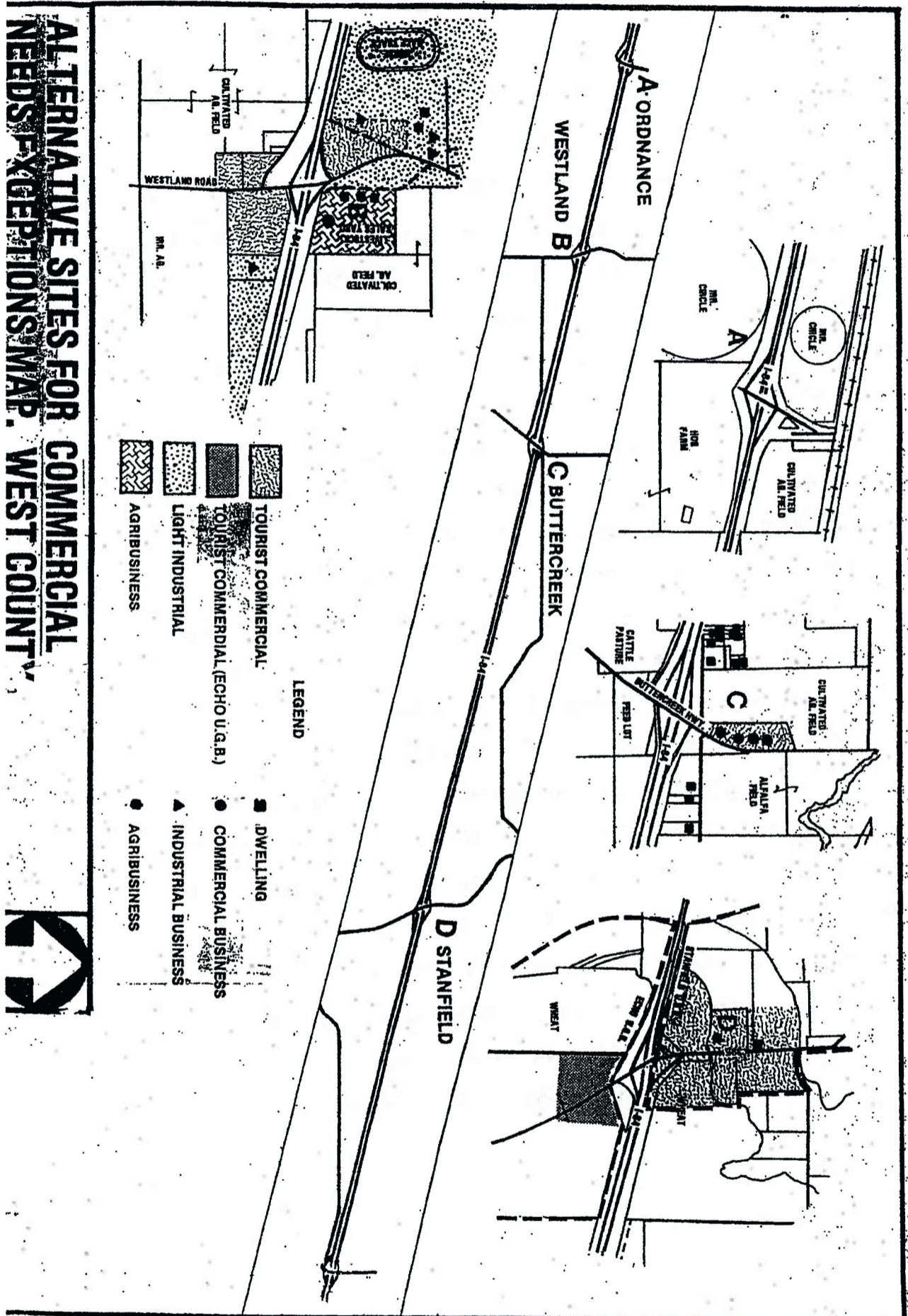
On the south side of Stanfield Interchange is the northern boundary of the acknowledged Echo UGB. One hundred and sixty acres is designated for commercial/industrial use by the Echo Comprehensive Plan. Approximately 30 acres has been zoned for Tourist Commercial use. The remaining acreage is zoned for industrial use. This area is also about 3/4 of a mile north of the present city limits and at least 1/2 mile away from the sewer plant. The land in Echo UGB is also farmed at this time. The soils (Class IIe irrigated, Class IVe non-irrigated) are much better at this location than at Westland.

While a certain amount of traffic passes by this Stanfield Interchange, it is not the intersection of two major freeways as is Westland. The Stanfield Interchange will not get the traffic

from the west that will turn off to points north. Cars totaling 1700 per day leave the freeway between Westland and Stanfield junction with 1100 of them exiting at Westland itself. This is a considerable amount of traffic that misses the Stanfield Interchange which potentially would utilize tourist commercial facilities. By providing for commercial development at The Westland Interchange, this portion of the traffic volume that misses Stanfield could be served.

C. The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.

Some of the major reasons the Westland Interchange was chosen for commercial development was that there was existing non-resource development in the area and it was adjacent to a major freeway where traffic exited off in large volume to go to points north. Further, it is the first interchange that the traveling public can exit off from after the junction of the two freeways (I-84 and I-82). This makes the Westland Interchange ideally suited for commercial use. As stated earlier, 4650 vehicles per day approach the Westland Interchange, with 1100 vehicles exiting or entering the highway at this point. If services were made available at Westland, road vehicles will be able to exit and enter the freeway with minimum inconvenience. This would save time and



XVIII-416A

energy that now has to be expended by traveling several miles out of the way to get to an urban area where commercial facilities are located. The same could be said for other interchanges along the freeway, but traffic counts indicate a decrease in vehicles east of Westland Interchange. Already three of the quadrants of the Westland Interchange are in some other non-resource use. There are three other interchanges along I-84 in the West County area that could be identified as commercial by taking on exception. They are Ordnance, Buttercreek, (not including the area already developed) and Echo Road. In evaluating these other interchanges in comparison to Westland interchange, it became apparent that the other interchanges were much more suited for agricultural use. At Ordnance the north side is adjacent to the Umatilla Ordnance Depot and land uses are restricted to agricultural and open space uses by deed restriction. On the south side is a major hog farm and irrigated farmland. At Buttercreek, irrigated crop land is on the north side and a feedlot and cattle operation are located on the south side. At Echo Road Interchange three of the four quadrants are in wheat/fallow rotation and the fourth side is a scabby, alkali depression. This fourth quadrant (the northwest) could be suited for commercial use; however, several attempts to justify it for commercial uses have been denied by the state. Overall, as a general rule the lands around these other intersections are better producing soils or have operation that would be severely impacted by non-resource uses.

by using the land use planning goals and extensive public hearings. The site contains a gas station, produce stand, restaurant, car repair facility and travel trailer park; and for practical purposes is all developed.

**GROUP
MACKENZIE**

June 15, 2007

Umatilla County
Attention: Tamra Mabbott, Planning Director
216 SE 4th Street
Pendleton, Oregon 97801

Re: **Barton Commercial Center**
Plan Amendment and Zone Change – Transportation Analysis
Project Number 2060348.00

Dear Ms. Mabbott:

This letter analysis supports a change in zone designation for 6.4 acres of property from Rural Tourist Commercial (RTC) to Light Industrial (LI) for the proposed Barton Commercial Center in Umatilla County, Oregon. The purpose of this letter is to address Transportation Planning Rule (TPR) requirements in a manner sufficient to allow Umatilla County staff to prepare findings recommending land use approval. Specifically, this letter addresses the following:

- Proposed Land Use Actions
- TPR Requirements
- Trip Generation – TPR Analysis
- Conclusions

PROPOSED LAND USE ACTIONS

This proposal contemplates the change in zone designation for 6.4 acres of property from RTC to LI. This change in zone designation is ultimately intended to support a specific development application for truck sales and service uses. Transportation analysis supporting the change in zone designation needs to address TPR requirements as outlined in Oregon Administrative Rule (OAR) 660-012-0060.

TPR REQUIREMENTS

This analysis addresses the TPR requirements as outlined in OAR 660-012-0060(1) stating:

Where an amendment to functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures... to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility.

This analysis determines if the proposed change in zone designation “significantly affects a transportation facility.” If the proposed zone designation transportation impacts are greater than those contemplated by the current zone designation, mitigating infrastructure will need to be identified. If impacts are less, no mitigation or additional analysis is necessary.

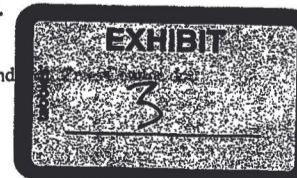
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TRIP GENERATION – TPR ANALYSIS

This analysis compares anticipated trip generation resulting from reasonable “worst-case” development of allowed land uses in the current and proposed zone designation. For the existing RTC zone designation, reasonable worst-case development on the 6.4-acre parcel is as follows:

- High Turnover (Sit-Down) Restaurant
- Service Station with Convenience Market/Truck Wash and Repair

For the proposed LI zone designation, reasonable worst-case development is assumed general office. Based on the Umatilla County development code, it is reasonable to assume 40% building area coverage. Since a 40-foot access easement exists along the northern border of the subject property, trip generation for the industrial use was calculated for the actual developable area of approximately 6.1 acres.

The following table identifies anticipated trip generation based on the above land use assumptions. PM peak hour trip generation rates are based on data contained in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 7th Edition.

TABLE 3 – TRIP GENERATION – TPR ANALYSIS							
Land Use	ITE Use Code	Units	Number of Units	PM Peak Hour Trip Generation			
				Rate	Enter	Exit	Total
Rural Tourist Commercial Zone							
High Turnover (Sit-Down) Restaurant	932	1,000 SF	5	10.92	33 (61%)	21 (39%)	54
Service Station with Convenience Market/Truck Wash and Repair	946	Fueling Positions	18	13.3	120 (50%)	120 (50%)	240
Total Tourist Commercial Trips					192	176	294
Light Industrial Zone							
General Office	710	1,000 SF	106.114 ¹	1.49	27 (17%)	131 (83%)	166
Total Light Industrial Trips					27	131	158

¹ Assumes 40% building coverage of 6.1 acres.

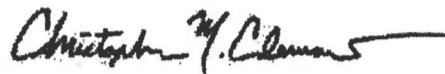
As identified in the previous table, trip generation resulting from reasonable worst-case development of allowed land uses in the current RTC zone designation exceed those in the proposed LI zone designation. Therefore, the proposed land use action does not “significantly affect” the transportation facility and additional analysis is not necessary to meet TPR requirements.

CONCLUSIONS

The proposed change in zone designation from Rural Tourist Commercial (RTC) to Light Industrial (LI) is anticipated to result in lower trip generation potential. As a result, the proposed amendment will not significantly affect an existing or planned transportation facility, and requirements outlined in OAR 660-012-0060 are met without further analysis.

Umatilla County
Barton Commercial Center
Project Number 2060348.00
June 15, 2007
Page 3

Sincerely,



Christopher M. Clemow, P.E.
Transportation Engineer

c: Michael C. Robinson, Roger A. Alfred – Perkins Coie
Robert G. Barton

Umatilla County Planning Commission
Meeting of Thursday, August 23, 2007
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

PLANNING COMMISSION PRESENT:

Lonnie Shurtleff (Chair), Gary Rhinhart, Frank Kaminski, Kathy Lieuallen, Don Horneck

PLANNING STAFF PRESENT:

Tamra Mabbott, J.R. Cook, Heather Smith

GUEST PRESENT:

Michael Robinson, Mary Jo Curtis, Paul Gelissen, Robert Barton, George Barton,
Richard Barton, Mike Connors

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. HOWEVER, A
TAPE OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT
OFFICE.

CALL TO ORDER:

Commissioner Shurtleff called the meeting to order at 6:45 p.m.

There were no objections or abstentions.

CONTINUED HEARING:

CONDITIONAL USE #C-1104-06. George Barton, applicant and property owner.
Property is 14.21 acres of a 116.61 acre split zoned parcel abutting the southeast corner
of the intersection of Col. Jordan Road and Interstate 84, approximately 5.5 miles
southwest of the City of Hermiston. The property under consideration is zoned Tourist
Commercial (TC).

PROPOSED REQUEST is to site the following uses: 125 unit hotel, 2 restaurants, bait
shop, sporting goods store, laundry facility, coffee shop, lounge, mini-market, auto
service station, truck station, truck wash and truck service repair shop. The total building
area is 46,564 square feet.

Criteria of approval include the Umatilla County Transportation System Plan and
Sections 152.010-011, 152.017, 152.277(E), 152.278, 152.280 and 152.610 - 152.615 of
the Umatilla County Development Code.

Staff Report: Mr. Cook referred to his August 16, 2007 memo; Exhibit #45. The
primary focus of the last meeting was adequate water supply and waste water treatment.
That hearing was continued and the applicant was directed to address these issues. The

EXHIBIT 6

Page _____

applicant's representative has contacted Mr. Cook and explained that the wastewater design will be a three acre lagoon with land application of wastewater, which requires a conditional use permit. In order to keep things "clean" the applicant requests another continuance to allow them to submit a conditional use application, and hold review of that application at the September 27th, 2007 Planning Commission hearing.

Mr. Cook requested that new exhibits #43, 44, 45, and 46 be added to the record.

Commissioner Horneck asked why there was a need to continue. Mr. Cook replied that County Counsel was more comfortable with allowing the applicant to submit an application for the conditional use and hearing the requests together. This would be much cleaner than placing a condition to acquire a conditional use, and would allow the Planning Commission to review the conditional use.

Commissioner Shurtleff asked for staff recommendation. Mr. Cook replied that, based on consultation with county counsel he would advise the Planning Commission to continue the hearing.

Applicant/Proponent Testimony: Michael Robinson, attorney with Perkins Coie, represented Mr. Barton. He explained that they have requested a continuance because they have a design that requires conditional use approval, and it is not possible to condition an approval of the tourist center upon acquiring a conditional use permit.

They do not have a final plan yet because they are revising it to show the water treatment facility in the Tourist Commercial (TC) zone. Mr. Robinson felt 30 days would be adequate time to get the conditional use application submitted, and it would also work well for representation because they have to be in the area for another meeting. Mr. Robinson noted that they would have been ready to hear a decision tonight if it had not been for the need to acquire a conditional use permit for their wastewater treatment plan.

Opponent Testimony: None.

Agency Testimony: None.

Neighboring property owner, Mary Jo Curtis noted concern with the number of times this application has been continued.

Planning Commission Discussion and Decision: Commissioner Kaminski moved to continue the hearing for Conditional Use Permit #C-1104-06, George Barton, applicant, to September 27, 2007 at 6:30 p.m., at the Justice Center in Pendleton. Commissioner Horneck seconded. Motion carried unanimously.

NEW HEARING:

PROPOSED REQUEST by George Barton, applicant/owner, to change the zoning of

property from Tourist Commercial (TC) to Light Industrial (LI) one acre minimum lot size. The applicant also proposes an exception to Statewide Planning Goal 14. The property is approximately 6.4 acres of a 116.61 acre parcel and is located southeast of the intersection of I-84 and Col. Jordan Road.

-----The request includes the following land use actions:-----

1. To change the Comprehensive Plan designation from Commercial to Industrial (Plan Map Amendment #P-093).
2. To change the Zoning Classification from Rural Tourist Commercial (RTC) to Light Industrial (LI), having a one-acre minimum lot size (Zoning Map Amendment #Z-288).
3. To change the Umatilla County Comprehensive Plan text to add a new industrial area description to the Industrial Lands section (Plan Text Amendment #T-07-031).
4. An exception to Statewide Planning Goal 14 (Urbanization).

Applicable criteria for approval include: Statewide Planning Goals 5 (Significant Natural Resources), 6 (Air, Water and Land Quality), 12 (Transportation), and 14 (Urbanization), Oregon Administrative Rule (OAR) 660-004, and Umatilla County Development Code Sections 152.750-152.778 containing the local requirements for the amendment process, public hearings, public notification and appeal process.

Staff Report: Assistant Planning Director, J.R. Cook presented the staff report, referring to his memo to the Planning Commission. The application concerns conversion a portion of an irrevocably committed non resource zone, Rural Tourist Commercial (RTC) to Light Industrial (LI). He referred to Exhibit #2, which shows the area of the zone change request. The balance of the tax lot would remain the same.

The most important criteria of approval will be exception to Statewide Planning Goal 14. Periodic Review previously required the county to define rural versus urban development outside of incorporated communities and urban growth areas. This property is in a RTC zone so an exception has not been taken, and there is currently a building size limitation of 3,500 square feet.

LI zoned lands that don't take exception are limited to 35,000 square feet. This would mean that they could have a building size much greater than the 3,500 allowed in the RTC zone. This application requests an exception to Goal 14 to allow urban scale development on 6.4 acres of the subject property to allow the greater building size.

The other two main areas Mr. Cook felt would be important for the Planning Commission to consider were Goals 5 and 6 because the subject property is in a critical groundwater area and a groundwater management area. He also felt it important to consider Policy 8 of the County Comprehensive Plan, which is related to water availability for future economic growth. He pointed out that the applicant did address this in their findings; Exhibit #5 of the record.

Mr. Cook noted that the Planning Commission would be making a recommendation for decision by the Board of Commissioners at a hearing to be held at 1:30 p.m. on Thursday, September 27th, 2007, in room 114 of the County Courthouse.

Mr. Cook confirmed that the change is being requested to allow a larger building size, as well as to allow for a large truck maintenance and repair facility, which is not allowed in the RTC zone. The applicant noted such in their findings.

Mr. Cook explained that Mr. Barton owns the property to the east. Mr. Barton's existing truck repair facility sits on portion of tax lot 500, which is already zoned LI. This zone change would essentially expand existing LI and reducing the existing RTC.

Applicant/Proponent Testimony: Michael Robinson, attorney with Perkins Coie, represented the applicant. Mr. Robinson noted that if the Planning Commission recommends approval to the Board, the applicant's findings include a textual description of the exception to replace the text of the Comprehensive Plan.

The county has an acknowledged exception to Goal 3 and recognizes that the property is committed to non-resource uses. The applicant seeks to change the zoning to LI to allow for a truck sales and service facility. In order to do that they need to amend the Comprehensive Plan from RTC to LI and take an exception to Goal 14 because they are proposing a new use. This would not take land out of resource designation because it is already designated non resource.

Mr. Robinson noted that development of the site as LI instead of RTC would actually generate less traffic, and achieving adequate water supply is also feasible for the proposed use.

Mr. Robinson commented that the main areas of concern in the staff report relate to groundwater. With respect to nitrate contamination, the applicant will be required by DEQ to have an adequate wastewater treatment plan. The applicant will also not be using water from the well on the property, but will bring it in from another source, and will take measures to prevent contamination of the existing well.

Mr. Robinson concluded that the property is already committed to urban use and the applicant is simply requesting a change to the type of urban use.

Bob Barton testified on behalf of George Barton that they were recently notified that they would not be able to provide truck maintenance services on this portion of the truck stop, so they are now simply trying to prevent future problems and address the issue now.

Opponent Testimony: Michael Connors, attorney with Davis Wright Tremaine testified that he represented Western Express and Space Age Fuels. He had no comments on this application. He primarily had questions for clarification.

He wondered if the property being amended and rezoned was going to be used as part of the truck stop or not? Also, he noted that application for zone change was filed in December 2006 and he later received notice that it was withdrawn. He wanted clarification that this is a new application and not a continuation of the December application.

Mary Jo Curtis, neighboring property owner asked about area involved in the proposal. Mr. Cook pointed out that the subject parcel encompasses three distinct zones: RTC, EFU, and LI. The only portion this application addresses is the east portion of the RTC zone. The EFU zoned area will not be affected.

Agency Testimony: None

Rebuttal Testimony: Mr. Robinson clarified for Mr. Connors that this is a new application, and this site is separate from the truck stop. He requested recommendation of approval to the Board of Commissioners.

Mr. Cook suggested that, due to the fact that Mr. Robinson prepared the findings, if the Planning Commission desires any supplemental information from staff it should be requested now, to be provided with their recommendation to the Board of Commissioners. He also asked that the Planning Commission accept Exhibits #1-5 to the record.

Hearing Closed; Deliberation and Decision: Commissioner Shurleff asked if it was meaningful that the truck repair and sales would be separate from the truck stop. Mr. Cook replied that they are essentially expanding a portion of the zoning on this property to accommodate an additional 6.4 acres of LI zoning, and this application is completely separate from the application for the truck stop.

Commissioner Rhinhart noted that a portion of the property is already zoned LI, so he wondered why they wanted more LI zoned property. Mr. Barton explained that they have the existing repair business which they wish to expand adjacent to the RTC zoned property where the truck stop will be located. Mr. Rhinhart felt existing nearby LI zoned property should be used rather than converting.

Commissioner Horneck moved to recommend approval of amendments #P-093, #Z-288 and #T-07-031, changing a portion of tax lot 400 from RTC to LI zoning and approving exception to Goal 14; and to accept the findings and Exhibits #1-5. Commissioner Kaminski seconded. Motion carried 4:1 with a no vote by Commissioner Rhinhart.

OTHER BUSINESS

Approval of Minutes: Commissioner Horneck moved to accept the minutes of June 28, 2007 as submitted. Commissioner Kaminski seconded. Motion carried unanimously.

Planning Commission
August 23, 2007

6

Groundwater Task Force Update: Planning Director, Tamra Mabbott explained that the 2050 Subcommittee is meeting tomorrow. The 2050 Plan is now in draft form and they met with Oregon Water Resources Department (OWRD) for early input. They are hoping to send it to a third party for technical review this fall.

Ms. Mabbott also talked about questions of OWRD services, and noted that, because of budget limitations, the Board has implemented a hiring freeze, which includes one of the OWRD positions.

She noted conversations about alternatives to county general funds. Most are long term, like encouraging the legislature to fund OWRD rather than local government. There has also been discussion about who benefits from water management. The County and OWRD have decided to work together and look for funding sources.

Mr. Cook added that the goal is to balance roles and get back to regulatory function as well as a planning and supply development role. If we can take burden off the general fund for the regulatory role we may be able to roll to funds into supporting the planning and supply role.

Fair Booth Report: Ms. Mabbott reported that there were a lot of water questions from all sides of the county. Staff kept log of questions, which were addressed within a week of the fair. There was not much volume of traffic to the booth, but it showed the public that we're here to answer questions.

ADJOURNMENT:

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,



Heather Smith
Secretary